

1 AN ACT in relation to public aid.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Public Aid Code is amended by
5 adding Section 12-4.25d as follows:

6 (305 ILCS 5/12-4.25d new)

7 Sec. 12-4.25d. Medical assistance vendors; unionization
8 activities.

9 (a) In this Section:

10 "Vendor" means a vendor of goods or services
11 provided to recipients of medical assistance under
12 Article V, except that "vendor" does not mean a facility
13 licensed under the Nursing Home Care Act as a skilled or
14 intermediate care facility, including an intermediate
15 care facility for the developmentally disabled.

16 "Vendor reimbursements" means moneys paid to a
17 vendor for goods or services provided to recipients of
18 medical assistance under Article V.

19 (b) A vendor may not use vendor reimbursements to pay for
20 activities directly related to influencing employees of the
21 vendor regarding their decision to organize or not to
22 organize and to form a union or to join an existing union,
23 because these activities are not directly related to the
24 purchase of goods or services for recipients. Vendor
25 reimbursements may not be used for these activities by
26 officers or employees of the vendor, or by an independent
27 contractor, consultant, or attorney with whom the vendor has
28 entered into a contract. Vendor reimbursements may not be
29 used to litigate the issue of the application of the National
30 Labor Relations Act to, nor the jurisdiction of the National
31 Labor Relations Board over, a vendor. Nothing in this

1 Section shall be construed as limiting an employer's rights
2 under Section 8(c) of the National Labor Relations Act.
3 Nothing in this Section shall be construed as limiting the
4 use of State funds by a vendor in the employment of, or for
5 contracting for, assistance in good faith collective
6 bargaining or in handling employee grievances, including
7 arbitration, under an employee-employer contract.

8 (c) If a vendor engages in activities directly related to
9 influencing employees of the vendor regarding their decision
10 to organize or not to organize and to form a union or to join
11 an existing union, the vendor must document the cost of those
12 activities and show that no vendor reimbursements were used
13 to pay for those activities in whole or in part. If the
14 vendor engages in those activities during a time when the
15 vendor's employees are ordinarily performing their normal
16 duties, the vendor must maintain records showing (i) the
17 date, time, and length of each meeting with employees held in
18 connection with those activities and (ii) the identity of all
19 participants in those meetings.

20 (d) If (i) a vendor engages in activities directly
21 related to influencing employees of the vendor regarding
22 their decision to organize or not to organize and to form a
23 union or to join an existing union, (ii) those activities
24 involved employees of the vendor whose normal duties involve
25 providing goods or services to recipients of medical
26 assistance, and (iii) those activities were conducted during
27 a period of time during which the employee would ordinarily
28 perform the employee's normal duties, then there is an
29 irrebuttable presumption that vendor reimbursements were used
30 to pay for a proportionate share of those activities. If it
31 is determined that a vendor improperly used vendor
32 reimbursements to pay for activities as described in this
33 subsection, then the vendor is subject to a civil penalty in
34 an amount equal to the proportion of the total cost of those

1 activities that represents the proportion of the vendor's
2 total revenues that were vendor reimbursements in the State
3 fiscal year in which the vendor engaged in those activities.

4 (e) If it is determined that a vendor improperly used
5 vendor reimbursements to pay for activities other than as
6 described in subsection (d), then:

7 (1) the vendor must repay to the State the amount of
8 moneys spent on activities in violation of this Section;
9 and

10 (2) the vendor is subject to a civil penalty in an
11 amount equal to twice the amount of moneys spent on
12 activities in violation of this Section.

13 (f) The Department of Public Aid may impose a demand for
14 repayment or a civil penalty under this Section after notice
15 and an opportunity for the vendor to be heard on the matter.
16 The Attorney General may bring a civil action on behalf of
17 the Department of Public Aid to enforce the collection of any
18 repayment or civil penalty imposed under this Section. If
19 the Attorney General declines to bring such an action, any
20 person may bring such an action on behalf of the Department
21 of Public Aid.

22 (g) If an agent of a vendor knowingly violates this
23 Section, the agent is jointly and severally liable with the
24 vendor for the violation and subject to imposition of demand
25 for repayment or a civil penalty under this Section.